

HOUSE BILL 1862

By Spivey

AN ACT to amend Tennessee Code Annotated, Title 8,  
Chapter 22; Title 8, Chapter 24 and Section 67-5-  
2007, relative to compensation for county officials.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-22-101, is amended by deleting the section in its entirety and by substituting instead the following new language:

8-22-101. The clerks and masters of the chancery courts, the county clerks and clerks of the probate, criminal, circuit and special courts, county mayors, county trustees, registers of deeds, general sessions court clerks, juvenile court clerks, sheriffs, and chief administrative officers of the county highway departments shall be deprived of all their fees, commissions, emoluments and perquisites that shall accrue, or be received by virtue of their respective offices, except payment for special services as trustee or receiver and payment for special services as special commissioner; and they shall be compensated for their services by salaries established by county legislative bodies as provided in chapter 24 of this title, which salaries shall be in lieu of all other compensation.

SECTION 2. Tennessee Code Annotated, Section 8-22-104(a), is amended in subdivision (1) by deleting the language "8-24-108" and by substituting instead the language "8-24-106".

SECTION 3. Tennessee Code Annotated, Section 8-22-104(a), is further amended by deleting subdivision (3) in its entirety and by substituting instead the following new language:

(3) The legislative body in each county may make the necessary appropriation and pay to any officer of its county as enumerated in § 8-22-101, to whom this section is

applicable, the salary established in accordance with § 8-24-102 and the authorized expenses fixed by law for the operation of the office including the salary of all deputies, which shall be the sole manner of compensation for those deputies as authorized pursuant to chapter 20 of this title, direct from the county trustee in twelve (12) equal monthly installments irrespective of the fees earned by such officers. In such an event, all fees allowed, collected or in any manner received by such officers will be paid, assigned, transferred, and set over to the county monthly, and when such fees are received by the clerk of any court or any other person such fees shall be transmitted monthly to the county trustee.

SECTION 4. Tennessee Code Annotated, Section 8-22-104(b), is amended by deleting subdivision (2) in its entirety and by substituting instead the following new language:

(2) No report shall be required from any officer named above where the fees and compensation received by the officer do not amount to the salary established in accordance with chapter 24 of this title, except that any money official whose salary is required or authorized to be supplemented out of the general funds of the county to the extent provided in §§ 8-24-104 and 8-24-105 of this act shall keep a book account of all fees collected by the officer and make an annual report of such collections to the county mayor, as required by § 8-24-104. No part of the salary of such official for the preceding year shall be paid by the county until such report has been made, the purpose of this requirement being to enable the county mayor to determine the amount of the deficiency in annual salary established by the county, or the amount of fees collected in excess of the salary to which such official is entitled.

SECTION 5. Tennessee Code Annotated, Section 8-22-106, is amended by deleting the section in its entirety and by substituting instead the following new language:

8-22-106. Any officer enumerated in § 8-22-101 who evades the letter or the spirit of chapters 21 and 22 of this title by making or by conspiring with anyone, in any manner, to make a false or incorrect exhibit of receipts, statement of expenses, or

statements as to any fact required to be stated by this chapter or chapter 24 of this title under oath, commits a Class E felony.

SECTION 6. Tennessee Code Annotated, Title 8, Chapter 24, is amended by deleting Part 1 in its entirety and by substituting instead the following new language:

8-24-101.

(a) For purposes other than determining compensation for the various county officers enumerated in § 8-24-102, the counties are divided into classes as follows:

(1) Counties having a population of four hundred thousand (400,000) or more shall constitute counties of the first class;

(2) Counties having a population of one hundred fifty thousand (150,000) or more, but less than four hundred thousand (400,000), shall constitute counties of the second class;

(3) Counties having a population of fifty thousand (50,000) or more, but less than one hundred fifty thousand (150,000), shall constitute counties of the third class. Within the third class, counties having a population of seventy-four thousand five hundred (74,500) or more shall constitute subclass A, and counties having a population of less than seventy-four thousand five hundred (74,500) shall constitute subclass B;

(4) Counties having a population of twenty-three thousand three hundred (23,300) or more, but less than fifty thousand (50,000), shall constitute counties of the fourth class;

(5) Counties having a population of twelve thousand (12,000) or more, but less than twenty-three thousand three hundred (23,300), shall constitute counties of the fifth class;

(6) Counties having a population of five thousand five hundred (5,500) or more, but less than twelve thousand (12,000), shall constitute counties of the sixth class;

(7) Counties having a population of three thousand seven hundred seventy (3,770) or more, but less than five thousand five hundred (5,500), shall constitute counties of the seventh class; and

(8) Counties having a population of less than three thousand seven hundred seventy (3,770) shall constitute counties of the eighth class.

(b) For purposes of this section:

(1) Except as required by subdivision (2), the population of counties shall be determined by the 1970 federal census and the most recent succeeding federal census.

(2) The population of counties which have a population of not less than thirty-four thousand four hundred (34,400) nor more than thirty-four thousand five hundred (34,500), according to the 1970 federal census or any subsequent federal census, shall be determined by the 1970 federal census and any succeeding census taken in the county or counties.

8-24-102.

(a) For the purposes of determining the compensation to be received by the various county officers, "general officers" includes assessors of property, county clerks, clerks and masters of chancery courts, clerks of probate courts, clerks of circuit courts, clerks of general sessions courts, clerks of criminal courts, juvenile court clerks, county trustees, registers of deeds, county mayors, sheriffs, and chief administrative officers of the county highway departments.

(b) Beginning July 1, 2014, the compensation of general officers in each county shall be set by resolution adopted by a majority vote of the county legislative body prior to the election of such officers, and paid from the general fund of each county.

(c) Any education incentive payments made to certified public administrators pursuant to § 5-1-310 and payments made to assessors of property pursuant to § 67-1-501 shall not be included when determining the salary paid to the general officers of the county in accordance with this section.

(d) Notwithstanding any provision of this section to the contrary, a county legislative body may provide to a clerk of court who serves more than one (1) court in the county additional compensation in the amount of ten percent (10%) of the clerk's base compensation. The increase shall be for the purpose of compensating the clerk for the additional duties and time required to serve multiple courts. For the purposes of this section, a clerk and master shall be considered eligible for this additional compensation, if the clerk serves as clerk of the court that exercises probate jurisdiction. In order for the increase to be valid, it must be adopted by resolution of the county legislative body.

8-24-103.

(a)

(1) In addition to making necessary appropriations for the salaries of the general officers, county legislative bodies in each county shall make the necessary appropriation for the operation of the sheriff's office, including the salary of all the sheriff's deputies, which shall be the sole manner of compensation for those deputies, as authorized pursuant to

chapter 20 of this title, direct from the county trustee in twelve (12) equal monthly installments, irrespective of the fees earned by the sheriff.

(2) In such an event, all fees allowed, collected, or in any manner received by the sheriff will be paid, assigned, transferred, and set over to the county. When such fees are received by the sheriff, the clerk of any court or any other person, they shall be transmitted monthly to the county trustee.

(3) No sheriff shall claim, hold, or have any interest in such funds for services performed, fees paid the sheriff as a witness for appearing in court, the boarding of prisoners at the county jail, ex officio services, or fees from any other source whatsoever, except that this provision and the provisions of subdivision (a)(2) are not intended to prevent the county legislative body from paying the sheriff in such county an amount in addition to the set by the county legislative body for ex officio services as superintendent of the workhouse, if the workhouse in such county is combined with the jail as provided for by title 41, chapter 2.

(4) Any sheriff serving under this provision shall make a charge for all services performed by such sheriff as now provided by law, and such sheriff shall have no authority to waive, remit, or release any fee for any service or services performed.

(b) The provisions of this section, or any part or portion thereof, are severable, and in the event that any provision, or part or portion of any provision of this section, is declared to be unconstitutional, such a declaration or decree shall not affect the remainder of this section.

8-24-104.

(a) Each official whose salary is required to be supplemented from the county general fund shall keep a book account of all fees collected and make an annual report of the collections to the county mayor. No funds shall be paid from the general funds of the county to supplement salaries until such report has been filed with the county mayor.

(b) These reports and records shall be entered in a well-bound book by the county clerk and kept on file in that office.

8-24-105. If the total fees collected by the officials enumerated in § 8-22-101, after deduction for the legally authorized expenses of the office, including, but not limited to, salaries of deputies and assistants, are not sufficient to pay the salary required by § 8-24-102, then the remainder of such salary shall be paid out of the general funds of the county by warrant drawn on the general funds of the county in the hands of the trustee.

8-24-106.

(a) In the event that the fees collected by the sheriffs in any of the counties within the provisions of §§ 8-24-101 — 8-24-103 and 8-24-104 — 8-24-107 do not in any month amount to a sum sufficient to pay all other necessary and legitimate expenses incurred in the proper and efficient administration of the sheriff's office, including the compensation of the sheriff, then the shortage of such compensation and expenses as herein provided shall be paid out of the public funds of the counties each month.

(b) In the event that fees collected by the clerks of the criminal court in any of the counties within the provisions of §§ 8-24-101 — 8-24-103 and 8-24-104 — 8-24-107 do not in any month amount to a sum sufficient to pay all proper, necessary and legitimate expenses incurred in the proper and efficient administration of the sheriff's office, including the compensation set by the county

legislative body for the clerk of the criminal court, then the shortage of such compensation and expenses herein provided shall be paid out of the public funds of the counties each month.

8-24-107.

(a) If in any county there is, or may hereafter be created, a special chancery, circuit, criminal, county or probate court where the clerk and master or clerk is clerk of the special court by virtue of such clerk's office in the county, no additional salary shall be allowed such clerk and master or clerk for transacting business of such special courts, but the services shall be performed by virtue of the office the clerk and master or clerk of the special court holds and for the salary provided for such officer by the county legislative body; provided that:

(1) When the clerk and master, or clerk of the court, cannot, for want of time, properly and efficiently conduct the affairs and transact the business of clerk and master or clerk of the special court, then such official shall file a sworn petition in the special court with the chancellor or judge holding the special court, in term or at chambers, in the manner and form provided in §§ 8-20-101 — 8-20-106 and have action taken thereon as is provided; and

(2) Where the clerk and master or clerk of the special court holds such office by appointment of the chancellor or judge of the special court, the clerk and master or clerk of the special court shall make application to the chancellor or judge of the special court, by sworn petition, in term or at chambers, setting forth the facts, showing the approximate amount of fees collected yearly in the office, and whether or not a deputy or deputies should be appointed for the proper and efficient conduct of affairs of the



office and the salary to be allowed such deputy, and have such proceedings thereon as to the fixing of the salary of any deputy or deputies as provided by §§ 8-20-101 — 8-20-106.

(b) The provisions of this section prohibiting additional salaries or compensation to clerks and clerks and masters of special courts shall not apply to chancery courts now having or hereafter having exclusive jurisdiction and powers with respect to the probate of wills and administration of estates. When such clerk or clerk and master shall serve as clerk or clerk and master of a chancery court now having or hereafter having exclusive jurisdiction and powers with respect to the probate of wills and administration of estates, it shall be lawful for such clerk or clerk and master to receive additional compensation, and payable as may be provided in the law, and any amendments thereto, creating such court.

8-24-108. The county legislative body of each county shall, at its first session in each and every year, make such allowance as it, in its discretion, thinks sufficient to compensate its sheriff for ex officio service.

8-24-109. This part shall not be construed to repeal or modify in any way any private act of the state in effect on or subsequent to July 1, 2014, fixing the salary of any general officer as defined in this part.

SECTION 7. Tennessee Code Annotated, Section 67-5-2007(a)(2), is amended by deleting the language “8-24-106, and 8-24-107” and by substituting instead the language “8-24-104, and 8-24-105”.

SECTION 8. This act shall take effect July 1, 2014, the public welfare requiring it.